

**CHAPTER 2
DETERMINATIONS, TIMELINE, AND FLOW CHART**

TABLE OF CONTENTS

2.01	Judicial Determinations and Hearing Requirements to Establish and Continue Title IV-E Reimbursement for Child Welfare Foster Care Placements.....	2-3
	A. Involuntary Placements.....	2-3
	B. Voluntary Placements	2-3
	C. Permanency – Finalize Permanency Plan	2-4
	D. Permanency – Annual Review for Children in Long Term Foster Care.....	2-6
2.02	Child Protection Process Timeline: Removal to Permanency.....	2-7
2.03	Minnesota Child Protection Process Flowchart: Assessment to Permanency.....	2-13

NOTICE

Orders that are not timely issued, or that do not include the “reasonable efforts” and other findings required under Title IV-E of the Social Security Act, may subject the county and/or state to negative financial consequences related to foster care funding (see Chapter 1.05 – “Ensuring Continued Funding – The Court’s Role”).

[This page intentionally left blank.]

2.01 JUDICIAL DETERMINATIONS AND HEARING REQUIREMENTS TO ESTABLISH AND CONTINUE TITLE IV-E REIMBURSEMENT FOR CHILD WELFARE FOSTER CARE PLACEMENTS

This chart provides a snapshot of the decisions judges must make, the time by which such decisions must be made, and the financial consequence if the decisions are not timely made.

This chart does NOT address requirements of the Indian Child Welfare Act (ICWA) regarding the court's review of the agency's duty to make active efforts to prevent the breakup of the Indian child's family. A finding that the agency made active efforts to prevent the breakup of the Indian child's family meets Title IV-E reasonable efforts requirements. However, the active efforts requirement of ICWA has legal requirements differing from Title IV-E and beyond the scope of this chart.

Judicial Determination	Timing	Consequence of Failure to Make Determination ¹
INVOLUNTARY PLACEMENTS: Judicial determinations related to involuntary placements and whether or not the child should be involuntarily removed		
1. Continuation of the child in the custody of the parent is contrary to the child's welfare; AND	In the ex parte order removing the child AND at the EPC or detention hearing.	No eligibility for Title IV-E reimbursement for entire length of placement.
2. Reasonable efforts were made to prevent placement; OR	At the EPC hearing or detention hearing.	No eligibility for Title IV-E reimbursement after 60 days.
3. Reasonable efforts to prevent placement were not required.	At the EPC or detention hearing; or upon a prima facie determination that certain circumstances exist. ²	No eligibility for Title IV-E reimbursement after 60 days.
VOLUNTARY PLACEMENTS: Judicial determinations related to voluntary placements and whether or not the child needs placement		
Placement of the child in foster care is in the best interests of the child.	For voluntary placement of a child in placement due solely to disability, RJPP provides that a report to the court under Minn. Stat. § 260C.141, subd. 2(b), is due by day 165 of child's placement; by day 175 of child's placement, the court determines whether placement	No eligibility for Title IV-E reimbursement unless the necessary judicial determination is made before the 181st day of voluntary placement. But reimbursement is allowed for the first 180 days.

¹ See generally, 42 U.S.C. § 671-672; 45 C.F.R. § 1356.21-22.

² Minn. Stat. § 260.012 provides that reunification efforts are not required when: the parent has subjected the child to egregious harm; parental rights to another child of the parent have been involuntarily terminated; the child is an abandoned infant; the parent's permanent legal and physical custodial rights to another child have been involuntarily transferred under Minn. Stat. § 260C.201, subd. 11(d)(1), or a similar law of another jurisdiction; or the parent has been convicted of certain crimes toward another of the parent's children.

Judicial Determination	Timing	Consequence of Failure to Make Determination ¹
	is in the best interests of the child.	
Placement of the child in foster care is in the best interests of the child.	For voluntary placement of a child in placement NOT solely due to disability, CHIPS petition required within 90 days of voluntary placement agreement; first hearing on CHIPS petition requires “best interests” determination. ³	No eligibility for Title IV-E reimbursement after 180 days.
PERMANENCY: Judicial determinations related to agency’s duty to make reasonable efforts to finalize a permanent plan⁴ for all children in placement and requirement for “compelling reasons” for children to continue in foster care past 12 or 14 month permanency hearing		
For CHIPS cases, reasonable efforts have been made to reunify the child with the parent(s).	At the time of disposition hearing. This finding always relates to reasonable efforts to reunify, unless the case is one where reasonable efforts for reunification are not required. ⁵	The requirement for a reasonable efforts determination is a Minnesota requirement. There is no IV-E consequence unless the finding is negative (i.e., “reasonable efforts have not been made”). In some instances, the agency may use the “reasonable efforts” finding made at disposition to meet the reasonable efforts to finalize a permanent plan required under Title IV-E, which would normally occur later in the

³ See Minn. Stat. § 260C.141, subd. 2(a).

⁴ Under 45 C.F.R. § 1356.21, “permanent plan” means reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement. Permanent orders regarding a child under Minnesota law are similar and are contained at Minn. Stat. § 260C.201, subd. 11, and § 260C.141, subd. 2(b)(2).

⁵ In certain juvenile protection cases, reunification efforts are not required. In fact, in some cases, termination of parental rights is mandated absent an approval of the agency’s determination that there are compelling reasons not to terminate parental rights. Cases in which reunification efforts are not required are:

- (a) The parent has subjected a child to egregious harm as defined in Minn. Stat. § 260C.007, subd. 14;
- (b) The parental rights of the parent to another child have been terminated involuntarily;
- (c) The child is an abandoned infant as defined in Minn. Stat. § 260C.301, subd. 2(a)(2);
- (d) the parent’s custodial rights to another child have been involuntarily transferred to a relative under Minn. Stat. § 260C.201, subd. 11(d)(1), or a similar law of another jurisdiction; or
- (e) A termination of parental rights petition or other petition according to Minn. Stat. § 260C.201, subd. 11(d)(2), has been filed alleging a prima facie case that the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

Judicial Determination	Timing	Consequence of Failure to Make Determination ¹
		course of the child's placement.
Other than cases NOT requiring reunification efforts, ⁶ in TPR and permanency cases reasonable efforts have been made to reunify the child with the parent(s).	At 12-month permanency hearing ⁷ or trial on TPR petition, a judicial determination is required not later than 15 months ⁸ after court-ordered removal; prima facie determination may be made based on petition; final determination may be made after trial.	Eligibility for IV-E reimbursement ceases at the beginning of the month following the missed determination. Eligibility is re-established by making the determination.
For cases NOT requiring reunification efforts, agency efforts to finalize permanent placement of the child are required together with court review of those efforts. ⁹	When the court makes a prima facie determination under Minn. Stat. § 260C.178, subd. 1(e)(3), one of the following must occur: 1. A TPR petition is filed and the matter tried within 90 days of the determination; or 2. Other permanency pleadings are filed and a permanency hearing held within 30 days of the determination. The reasonable or active efforts determination should occur at the permanency hearing or at disposition of the TPR. ¹⁰	Eligibility for IV-E reimbursement ceases at the beginning of the month following the missed determination. Eligibility is re-established by making the determination.

⁶ *Id.*

⁷ Minn. Stat. § 260C.201, subd. 11, requires a permanency hearing not later than 12 months after the child is ordered into out-of-home placement.

⁸ Trial on a termination of parental rights petition filed on a matter requiring a permanency hearing must be held within 90 days after the petition is filed; the petition must be filed not later than 12 months after placement. See Minn. Stat. § 260C.201, subd. 11(b).

⁹ See Minn. Stat. § 260.012.

¹⁰ See Minn. Stat. § 260C.178, subd. 1(e).

Judicial Determination	Timing	Consequence of Failure to Make Determination ¹
When the court orders or approves ¹¹ the child's stay in foster care past 12 or 14 months, the court must find "compelling reasons." ¹² This is a one-time finding and does not have to be repeated annually.	At time of permanency hearing or anytime the court orders long-term foster care, foster care for a specified period of time or approves the child's continuing in foster care past a total of 12 months.	Eligibility ceases in month after determination missed; eligibility may be re-established by making the determination.
PERMANENCY: Judicial determinations related to agency's duty to make reasonable or active efforts to finalize a permanent plan for all children in placement – annual review		
Annual in-court review required for a child ordered into long-term foster care or foster care for a specified period of time. ¹³	Every 12 months as long as the child continues in foster care. ¹⁴	Eligibility ceases in month after determination missed; eligibility may be re-established by making the determination.

¹¹ In the case of a child in placement due solely to the child's disability, the court may approve the continued voluntary arrangement; the placement does not become court ordered. See Minn. Stat. § 260C.141, subd. 2(b)(2).

¹² See various requirements at Minn. Stat. § 260C.201, subd. 11(d)(3); § 260C.312; and § 260C.141, subd. 2(b). See definition at § 260C.007, subd. 8. 45 C.F.R. § 1356.21(h)(3).

¹³ Minn. Stat. § 260C.201, subd. 11(g), details the reasonable efforts required of the agency to be reviewed by the court. The annual review is required for any child ordered into long-term foster care or foster care for a specified period of time under Minn. Stat. § 260C.201, subd. 11, or Minn. Stat. § 260C.317, subd. 3(d). The court must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

1. identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;
2. support continued placement of the child in the identified home, if one has been identified;
3. ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;
4. plan for the child's independence upon the child's leaving long-term foster care as required under Minn. Stat. § 260C.212, subd. 1; and
5. plan for the safe return of the child to the care of the parent, where placement is for a specified period of time.

¹⁴ See Minn. Stat. § 260C.141, subd. 2(b)(2)(ii), for a child in placement due solely to the child's disability, Minn. Stat. § 260C.201, subd. 11(g), for other children in long-term or specified time foster placement, and Minn. Stat. § 260C.317, subd. 3(c), for state wards in long-term foster placement.

2.02 CHILD PROTECTION PROCESS TIMELINE: REMOVAL TO PERMANENCY

EVENT	RELATED EVENTS/OTHER INFORMATION
Child removed from home <i>RJPP 28;</i> <i>Minn. Stat. § 260C.175, subd. 1</i>	Permanency clock begins on the date of the court-ordered placement, which may be different from the date of actual removal from home (<i>RJPP 42.02; Minn. Stat. § 260C.201, subd. 11(a); 42 U.S.C. § 675(5)(F)(i).</i> If child is in voluntary placement, permanency clock starts to run 60 days after voluntary placement (<i>RJPP 42.02(b).</i>
Summons and CHIPS Petition served and filed <i>RJPP 32.02; subd. 5 (service) and 33.05 (filing)</i> <i>Minn. Stat. § 260C.141, subd. 1</i>	If child is removed involuntarily, the Summons and CHIPS petition must be filed (<i>RJPP 33.05; Minn. Stat. § 260C.178, subd. 2b; Minn. Stat. § 260C.141, subd. 1</i>) and served at or prior to EPC hearing (<i>RJPP 32.02, subd. 5(a).</i> ¹⁵ If child is in voluntary placement, CHIPS petition must be served and filed within 90 days of placement (<i>Minn. Stat. § 260C.212, subd. 8; RJPP 44.02</i>). If ICWA case, service must take place 10 days prior to hearing; tribe may request up to 20 additional days to prepare for the hearing (<i>RJPP 32.06; 25 U.S.C. § 1912</i>). <i>Comment: ICWA supercedes state law and rules.</i>
Child Protective Services Case Plan (for child not removed from home) <i>RJPP 37.04</i> <i>Minn. Stat. § 260C.178, subd. 7; and § 260C.212, subd. 1</i>	If the child is not in out-of-home placement, a child protective services case plan must be served and filed with the CHIPS petition unless the agency includes a statement stating why it will be filed at a later date (<i>RJPP 37.04(a).</i> Court may approve the plan based on contents of CHIPS petition and implementation of approved plan may be basis for reasonable efforts determination (<i>Minn. Stat. § 260C.178, subd. 7, RJPP 37.04 (b).</i> <i>Comment: The Court can't order the case plan without a hearing unless the parent agrees.</i>
Emergency Protective Care Hearing <i>RJPP 30.01, subd. 1</i> <i>Minn. Stat. § 260C.178, subd. 1(a)</i>	The EPC Hearing must be held within 72 hours ¹⁶ of the child's removal from home. May be continued for up to 8 days if the court makes the findings required under the Rules (<i>RJPP 30.01, subd. 2; Minn. Stat. § 260C.178, subd. 1(a).</i>

¹⁵ Diligent efforts to locate both parents of child are required as soon as the child enters foster care; relative search and consideration of placement with relatives occur as early as possible. *Minn. Stat. § 260C.212 subds. 4 and 5.*

¹⁶ When calculating the 72-hour period, the day the child was removed from home and any Saturday, Sunday, or legal holiday is not counted. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs to the end of the next day that is not a Saturday, Sunday, or legal holiday. *RJPP 4.01.*

EVENT	RELATED EVENTS/OTHER INFORMATION
Admit/Deny Hearing <i>RJPP 34.02, subd. 1(a), subd. 2(a)</i>	<p>If the child is in out-of-home placement, the Admit/Deny Hearing on a CHIPS petition must be held within 10 days of the EPC Hearing (<i>RJPP 34.02, subd. 1(a)</i>). Upon agreement of the parties, the Admit/Deny Hearing may be combined with the EPC Hearing (<i>RJPP 34.02, subd. 1(a)</i>). When the child is not in out-of-home placement, the Admit/Deny Hearing must be held no sooner than 5 days and not later than 20 days after the parties have been served with the summons and petition (<i>RJPP 34.02, subd. 2(a)</i>).</p>
Scheduling Order <i>RJPP 6.02, subd. 1</i>	<p>A scheduling order must be issued in every case at or within 5 days of the Admit/Deny Hearing (<i>RJPP 6.02, subd. 1</i>).</p> <p><i>Comment: The Scheduling Order template is located on CourtNet.</i></p>
Out-of-Home Placement Plan <i>RJPP 37.02, subd. 2; 37.03, subd. 1; and 37.05</i> <i>Minn. Stat. § 260C.178, subd. 7; and § 260C.212, subd. 1</i>	<p>If the child is in out-of-home placement, the Out-of-Home Placement Plan must be served and filed within 30 days of the child's court-ordered removal (<i>RJPP 37.02, subd. 2</i>). The court may approve the plan based upon the contents of the CHIPS petition, and implementation of approved plan may be basis for reasonable efforts determination (<i>Minn. Stat. § 260C.178, subd. 7, RJPP 37.02, subd. 4</i>).</p> <p><i>Comment: The Court can't order the case plan without a hearing unless the parent agrees.</i></p>
Pretrial Conference <i>RJPP 36.01</i>	<p>A Pretrial Conference should be scheduled in every case where a denial has been entered so that settlement may be attempted and/or issues narrowed for trial (<i>RJPP 36.02</i>). A Pretrial Conference must be held at least 10 days prior to the trial (<i>RJPP 36.01</i>).</p>
CHIPS Trial <i>RJPP 39.02, subd. 1</i>	<p>A trial in a CHIPS matter must be commenced within 60 days of the date of the EPC Hearing or Admit/Deny Hearing, whichever is earlier. (<i>RJPP 39.02, subd. 1(a)</i>). If the court makes the findings required under the Rules, the court may extend the commencement of the trial (<i>RJPP 39.02, subd. 2</i>). Once commenced, trial may not be continued or adjourned for more than 1 week unless the court finds that the continuance is in the child's best interests (<i>RJPP 39.02, subd. 2(b)</i>). Trial must be commenced and completed within 90 days of denial (<i>RJPP 39.02, subd. 2(b)</i>). County attorney determines whether criminal or juvenile case proceeds first in cases of egregious harm (<i>RJPP 39.02, subd. 1(d)</i>). The court must issue its decision within 15 days of trial, although this may be extended for up to 15 days for good cause (<i>RJPP 39.05, subd. 1</i>).</p>

EVENT	RELATED EVENTS/OTHER INFORMATION
Findings/Adjudication <i>RJPP 40.01</i>	If the court finds that the statutory grounds set forth in the petition have been proved, the court may adjudicate the child as in need of protection or services or may withhold adjudication for period not to exceed 90 days from date of finding that the statutory grounds are proved (<i>RJPP 40.02</i>).
Disposition Hearing <i>RJPP 41.01</i> <i>Minn. Stat. § 260C.201</i>	To the extent practicable, the court shall conduct a Disposition Hearing and enter disposition, consistent with Minn. Stat. § 260C.201, the same day as adjudicating the child in need of protection or services. The disposition order must be issued not later than 10 days after adjudication (<i>RJPP 41.02</i>).
Review Hearings <i>RJPP 41.06, subd. 1</i>	When child is in out-of-home placement, in-court review hearings must occur at least every 90 days following disposition; when child is at home under protective supervision, in-court review hearings must occur at least every 6 months following disposition (<i>RJPP 41.06, subd. 1</i>). Purpose is to determine whether the agency has made reasonable or active efforts to reunify the child with the parent, to review parent's progress on case plan, and to correct any problems with services and address barriers to reunification. It also affords an opportunity to ensure parent understands consequence to both parent and child of failure to comply with case plan (<i>RJPP 41.06, subd. 2</i>).
Permanency Progress Review Hearing (for child under age 8) <i>RJPP 42.01, subd. 1(a);</i> <i>Minn. Stat. § 260C.201, subd. 11a(a)</i>	For a child under age 8 at the time the petition was filed, a Permanency Progress Review Hearing (different from a Permanent Placement Determination Hearing) must occur within 180 days of court-ordered placement to review progress on case, parent's progress on out-of-home placement plan, and agency's provision of services (<i>RJPP 42.01, subd. 1(a)</i>). If the court determines that the parent is maintaining regular contact with the child and complying with the court-ordered case plan, the court may either (1) return the child home if the conditions which lead to the out-of-home placement have been resolved and it is safe for the child to return, or (2) continue the child in out-of-home placement for up to an additional six months (<i>Minn. Stat. § 260C.201, subd. 11a(c)(1)</i>). If the court determines that the parent is not complying with case plan or is not maintaining regular contact with the child, the court may order the agency to develop a permanent plan for the child away from the parent and to file a petition to support an order the permanent placement

EVENT	RELATED EVENTS/OTHER INFORMATION
	plan (<i>Minn. Stat. § 260C.201, subd. 11a(c)(2)</i>). The court's Order must be issued within 15 days of the hearing (<i>RJPP 42.05</i>).
Permanent Placement Petition Filed (for child under age 8) <i>RJPP 42.04, subd. 2;</i> <i>Minn. Stat. § 260C.201, subd. 11(b)</i>	For child under age 8, unless agency recommends return of child to parent or legal custodian, permanency pleadings must be filed not later than 30 days prior to Permanency Progress Review Hearing (<i>RJPP 42.04, subd. 2; Minn. Stat. § 260C.201, subd. 11(b), and (c)(2)</i>).
Permanent Placement Petition filed (for child age 8 and older) <i>RJPP 42.04, subd. 2;</i> <i>Minn. Stat. § 260C.201, subd. 11(b)</i>	For child age 8 or older at the time the petition was filed, unless agency recommends return of child to parent or legal custodian, permanency pleadings must be filed not later than 30 days prior to Permanent Placement Determination Hearing (<i>RJPP 42.04, subd. 2; Minn. Stat. § 260C.201, subd. 11(b)</i>). TPR petition may be filed after ay 335; if TPR petition is filed and trial scheduled on that petition within 90 days of the filing no permanency hearing need be held at day 365 (<i>Minn. Stat. § 260C.201, subd. 11(b)</i>).
Permanent Placement Determination Hearing (for any child who remains in out-of-home placement at 12 months) <i>RJPP 42.01, subd. 1(b);</i> <i>Minn. Stat. § 260C.201, subd. 11(a)</i>	This hearing is the Admit/Deny Hearing on the Permanent Placement Determination Petition and must be commenced on or before the 365 th day after the child's court-ordered removal from home. If a denial is entered, trial on a TPR Petition must begin within 90 days of the filing of the TPR petition (<i>RJPP 39.02, subd. 1(c)</i>). If the court does not order termination of parental rights after trial on a TPR petition and the child has been in placement 15 of the last 22 months, the court must order the child returned to the care of the parent unless the court finds compelling reasons why the child should remain out of the care of the parent. <i>Minn. Stat. § 260C.312(b)</i> .
Permanent Placement Order issued by court¹⁷ <i>RJPP 42.05, subd. 1</i>	Permanent Placement Decision must be issued within 15 days of conclusion of trial, but may be extended for an additional 15 days for good cause shown (<i>RJPP 42.05, subd. 1</i>).
Post-Permanency Review following Transfer of Legal Custody Permanency Decision <i>RJPP 42.05, subd. 2(b)</i> <i>Minn. Stat. 260C.201, subd. 11(d)(vi)</i>	If permanency decision is Transfer of Permanent Legal and Physical Custody to a Relative (TLC), juvenile court jurisdiction ends unless retained under Minn. Stat. § 260C.201, subd. 11(d)(vi), in which case review hearings will occur as ordered by the court. (<i>RJPP 42.05, subd. 2(b)</i>). A family court file must be

¹⁷ If child is returned home at permanency hearing, the court may modify the disposition to "protective supervision" under Minn. Stat. § 260C.201, subd. 1, and may continue court jurisdiction as long as necessary to ensure child's safety, health and well-being. When the court orders protective supervision, court hearings must be held at least every six (6) months.

EVENT	RELATED EVENTS/OTHER INFORMATION
	opened so that a copy of TLC order can be filed in the family court file and any future litigation regarding visitation, child support, etc., will be heard in the family court file. Notice of any family court proceedings must be given to social services agency (<i>RJPP 42.05, subd. 2(b)</i>).
Post-Permanency Review following Termination of Parental Rights Decision <i>RJPP 43.03, subd. 1</i> <i>Minn. Stat. § 260C.201, subd. 11(f)(3)</i>	If permanency decision is Termination of Parental Rights (TPR), hearing must take place at least every 90 days to review progress towards adoption (<i>RJPP 43.03, subd. 1; Minn. Stat. § 260C.201, subd. 11(f)(3)</i>).
Post-Permanency Review following Long Term Foster Care Decision <i>RJPP 42.05, subd. 2(e)</i> <i>Minn. Stat. § 260C.201, subd. 11(g)</i>	If permanency decision is Long-Term Foster Care (LTFC), in-court review hearings must take place at least annually to ensure child's needs being met; if placement disrupts, return to court sooner. (<i>RJPP 42.05, subd. 2(e); Minn. Stat. § 260C.201, subd. 11(g)</i>).

[This page intentionally left blank.]

**2.03 MINNESOTA CHILD PROTECTION PROCESS FLOWCHART:
ASSESSMENT TO PERMANENCY**











